

RECEIVED and FILED by the  
NEW JERSEY STATE BOARD OF  
VETERINARY MEDICAL EXAMINERS

on this date of: Aug. 11, 2000

STATE OF NEW JERSEY  
DEPARTMENT OF LAW & PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
STATE BOARD OF VETERINARY MEDICAL EXAMINERS

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In the Matter of:

ROBERT BLEASE, D.V.M.

FINAL ORDER

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This matter was opened before the New Jersey State Board of Veterinary Medical Examiners (the "Board") on September 7, 1999, upon the filing of a Uniform Penalty Letter (a "UPL") following the Board's investigation of a consumer complaint filed against respondent Robert Blease, D.V.M. by Susan L. Bishop. Within the UPL, we stated that, upon review of materials developed during our investigation, to include documents reviewed and testimony offered by respondent when appearing before the Board on July 28, 1999, we found that probable cause existed to support the filing of charges against respondent alleging that cause for disciplinary action existed based upon Dr. Blease's violation of the following three provisions of law:

- 1) N.J.A.C. 13:44-4.9, for reason that Dr. Blease failed to maintain records in accordance with the requirements of said regulation; and
- 2) N.J.A.C. 13:44-4.9(c), for reason that Dr. Blease failed to timely release patient records within 30 days of receipt of a written request for said records from the owner; and
- 3) N.J.S.A. 45:1-21(e), for reason that Dr. Blease failed to obtain consent from his client, Susan Bishop,

before performing a necropsy on Ms. Bishop's Miniature Schnauzer, Tabitha Bishop.

Within the UPL, respondent was offered an opportunity to settle the matter, and avoid the initiation of formal disciplinary proceedings, by agreeing to pay a civil penalty in the amount of \$3,000. Alternatively, respondent was offered the opportunity to waive his right to a hearing, and instead submit a written statement or explanation to the Board, which statement would have been reviewed by the Board for the purpose of determining whether cause existed to withdraw any of the preliminary findings cited within the UPL and/or to determine whether cause existed to reduce the proposed penalty within the UPL. Finally, respondent was offered the opportunity, within the UPL, to request a formal hearing, in which event the allegations of the UPL were to serve as a formal complaint against respondent. The UPL expressly provided that, in the event respondent requested a formal hearing and in the event charges against respondent were sustained, the Board could assess civil penalties in an amount greater than the \$3,000 offered in settlement, and that the Board could require Dr. Blease to pay the costs of any proceedings.

Respondent, by way of certification dated September 17, 1999, elected to request a hearing on this matter before the Board. That hearing was held before the Board on May 24, 2000, Deputy Attorney General Anthony P. Kearns appearing for complainant

Attorney General and respondent Blease appearing *pro se*.<sup>1</sup>

At the May 24, 2000 hearing, the Attorney General argued that this was a matter which could be decided strictly on review of documents introduced into evidence, to include statements that had been made by Dr. Blease when appearing for an investigative hearing on July 28, 1999, and in written statements that were made by Dr. Blease to the Board in response to the allegations made against him by Susan Bishop. The Attorney General thus argued that the patient record maintained by Dr. Blease for Tabitha Bishop on its face failed to include information required by N.J.A.C. 13:44-4.9; that the documents in evidence and respondent's own testimony conclusively demonstrated that Dr. Blease had failed to release records maintained for Ms. Bishop's pets within thirty days of a written request therefor from Ms. Bishop; and that it was indisputable, based on respondent's own statements and testimony, that he had performed a necropsy on Tabitha without obtaining consent to do so from Ms. Bishop. The Attorney General thus urged the Board to sustain the charges against respondent and argued that all material facts were evident and had in essence already been admitted to or conceded by Dr. Blease.<sup>2</sup>

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<sup>1</sup> Respondent was explicitly advised that he had the right to retain and to be represented by counsel at the proceeding, however elected not to obtain counsel and to proceed *pro se*.

<sup>2</sup> The Attorney General's case rested solely upon documents that were introduced into evidence, without objection, to include the patient records maintained by Dr. Blease, various written statements sent by Dr. Blease to the Board, and correspondence from Susan L. Bishop both to the Board and to Dr. Blease. Specific documents introduced into evidence by the Complainant

Dr. Blease urged the Board to reject the charges against him, arguing that the Board had failed to consider all the relevant facts regarding this case. Dr. Blease testified in his own defense, and also predicated his defense upon a series of documents that he introduced into evidence.<sup>3</sup> With regard to the charge that

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Attorney General were the following:

- S-1 Patient record for Tabitha Bishop provided to the Board by Dr. Blease.
- S-2 X-Ray of Tabitha Bishop, dated December 10, 1998 (?).
- S-3 December 13, 1998 letter from Susan Bishop to Robert Blease, requesting "complete file" maintained by Dr. Blease's office "on all of my pets".
- S-4 January 17, 1999 letter from Susan Bishop and family to Robert Blease; re: "second request for pet records".
- S-5 January 22, 1999 letter from Susan Bishop to Robert Blease; again requesting copies of pet records.
- S-6 Letter from Robert Blease to State Board of Veterinary Medical Examiners; undated, filed by Board March 26, 1999.
- S-7 December 20, 1998 letter to Susan Bishop (identified as having been drafted by Dr. Blease, but not sent) -- copy provided to Board by Dr. Blease with his response to Ms. Bishop's complaint; filed by Board March 26, 1999.
- S-8 Letter from Susan Bishop to State Board of Veterinary Medical Examiners (undated; filed by Board January 27, 1999).
- S-9 Transcript of testimony offered by Robert Blease when appearing for investigative inquiry before Board on July 28, 1998.
- S-10 Affidavit of Diane I. Romano, Executive Director of State Board (re: costs incurred by Board in this matter).

<sup>3</sup> Specific documents introduced into evidence by Respondent Blease, without objection, were the following:

- D-1 Letter dated December 12, 1998 from Susan L. Bishop to Dr.

his patient records failed to meet the standards required at N.J.A.C. 13:44-4.9, respondent argued that his records should be read not only to include the information that was within the patient record that had been turned over to the Board (see S-1 in evidence), but also to include the information within a supplemental letter that he prepared to send to Ms. Bishop on December 20, 1998, but did not send (S-7 in evidence).

Respondent argued that he should not be found to have violated the Board requirement that records be turned over within 30 days of a veterinarian's receipt of a request for records, for reason that his office policy was to have an owner come in and sign

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Blease (re: anger over death of Tabitha Bishop).

- D-2 Copy of Complaint form filed by Susan L. Bishop with the State Board of Veterinary Medical Examiners dated January 25, 1999.
- D-3 Letter from State Board of Veterinary Medical Examiners to Dr. Blease dated January 27, 1999 requesting forwarding of original medical records and response to Bishop complaint.
- D-4 Copy of American Veterinary Medical Association Principles of Veterinary Medical Ethics; Opinions and Reports of the Judicial Council; 1987 revision.
- D-5 Letter dated May 23, 2000 from Kim L. Klotz (re: office policies in Dr. Blease's office).
- D-6 Letter dated March 23, 1999 from Robert Blease to State Board of Veterinary Medical Examiners (re: response to subpoena and health problems).
- D-9 Copy of article from The Express-Times dated March 29, 1998 entitled "Veterinarian gives animals a chance when hope is gone" (re: Dr. Blease's practice).
- D-10 Copy of article from The Sunday Star-Ledger of May 14, 2000 entitled "Veterinarian works to cure the number of stray cats" (re: Dr. Blease's practice).

for records (although Dr. Blease testified that he would immediately mail and fax a copy of records to any subsequent treating veterinarian). Dr. Blease supported his claims with a letter (unsworn) from Kim Klotz, respondent's receptionist, who stated that "the policy of the hospital has always been to give the client copies of their records if it is requested. I personally would wait until the client would come into the office before I made the copies." Dr. Blease additionally pointed out that, on several occasions, Ms. Bishop's daughter and a friend of Ms. Bishop had come to the office following Tabitha's death, but did not then request patient records. Finally, Dr. Blease pointed out that, at or about the time that the events complained of occurred, he was suffering from a compendium of health related problems.

Finally, respondent conceded that he performed a necropsy on Tabitha, because of his shock at the dog's unexpected death. Respondent argued, however, that the Board should find that he in fact had consent to perform the necropsy, based on the fact that he had a twenty-five year veterinarian/client relationship with Ms. Bishop, and that the relationship had evolved over those twenty-five years to a point where Dr. Blease in essence had "carte blanche" to perform whatever diagnostic or other procedures he deemed necessary upon Ms. Bishop's animals. Dr. Blease thus claimed that he had an oral agreement with Ms. Bishop, and that in this case he believed it was necessary to perform an immediate

necropsy on Tabitha to attempt to understand why she died suddenly.

Findings of Fact and Conclusions of Law

Upon review of the evidence in this matter, the Board has concluded that cause exists to sustain the charges set forth in the U.P.L. that respondent violated N.J.A.C. 13:44-4.9 by failing to maintain adequate patient records and N.J.A.C. 13:44-4.9(c) by refusing to release patient records in a timely fashion. We dismiss the charge that respondent violated N.J.S.A. 45:1-21(e). Set forth below are the findings of fact and conclusions of law on which we rest the determinations made.

1) Record Keeping -- With regard to the allegations that respondent's record-keeping was inadequate, we find that the record respondent maintained for patient Tabitha Bishop, particularly for the incident in question, consists in its entirety of the information set forth at Exhibit S-1. Not only is the information set forth upon S-1 maintained on a form which common understanding suggests would ordinarily be a patient record, but also we note that, when asked by this Board to produce patient records maintained on Tabitha Bishop (in response to Ms. Bishop's complaint), respondent in fact produced the record that was marked as Exhibit S-1.

Dr. Blease's record of the events of 12/12/98 and 12/13/98 is brief. The record thus contains but a perfunctory entry dated 12/12/98, where Dr. Blease records that Tabitha was

"straining in pain" and that the "colon [was] full of bones." The entry for 12/13/98 states that the patient was found "dead" in the "a.m." in a "pool of blood," was "opened," and includes only brief references to any findings made.

We find the record maintained by Dr. Blease clearly falls well below the threshold set at N.J.A.C. 13:44-4.9. Specifically, we conclude that the record maintained by Dr. Blease for Tabitha Bishop failed to include the following required information:

- The name of the facility and the identity of the treating licensee, as required at N.J.A.C. 13:44-4.9(a)(1).

- A history of the presenting problem, as required at N.J.A.C. 13:44-4.9(a)(4).

- A record of all pertinent symptoms and signs observed, as required at N.J.A.C. 13:44-4.9(a)(5).

- Information concerning tests ordered and the results thereof, as required at N.J.A.C. 13:44-4.9(a)(6).

- Information concerning respondent's conclusions and/or diagnoses, as required at N.J.A.C. 13:44-4.9(a)(7).

- Information concerning the treatment or treatment plan prescribed, including a specific notation of any medications or modalities prescribed, as required at N.J.A.C. 13:44-4.9(a)(8).

- Such other notes or information so as to provide a clear statement of the patient's condition and the veterinary evaluation and response, as required at N.J.A.C. 13:44-4.9(a)(9).

In sum, we find the cursory notes recorded in the patient record entries of 12/12 and 12/13/98 provide a reader with little information concerning Tabitha's condition on December 12, 1998,

Dr. Blease's veterinary evaluation thereof and response thereto, and little information that would inform a reader of the events causing Tabitha's death or Dr. Blease's findings upon performing the necropsy. We unanimously conclude that our regulations require that a veterinary record include far greater detail and information, and thus determine that the record maintained by Dr. Blease for Tabitha Bishop fell substantially below the minimum record-keeping requirements set at N.J.A.C. 13:44-4.9.

Finally, we reject respondent's suggestion that the record should be read to include a December 20, 1998 letter that Dr. Blease prepared to send to Ms. Bishop, but then in fact did not send (S-7 in evidence). While that letter may contain additional information concerning Dr. Blease's relationship with Ms. Bishop and the events of December 12 and 13, 1998, it belies reason to suggest that the letter (prepared eight days after the death of Tabitha) was prepared for the purpose of inclusion within the patient record rather than as a response to Ms. Bishop's written complaint to Dr. Blease (D-1 in evidence). Indeed, we note that, when writing to the Board in March 1999, respondent did not refer to or suggest that his letter (S-7) was to be considered as part of Tabitha's patient record, but instead stated that he included a "copy of a draft I wrote in response to Susan's first letter, which I did not send." We conclude that the patient record can only logically and reasonably be deemed to be the record marked as S-1

in evidence, and find that record to patently and repeatedly fail to contain the minimum information required by regulation.

2) Failure to Release Patient Records -- We unanimously conclude that the evidence supports the charge that Dr. Blease failed to timely release Ms. Bishop's patient records. We thus find that, by letter dated December 13, 1998, Susan Bishop succinctly and unequivocally requested copies of patient records maintained on her pets by Dr. Blease (see S-3 in evidence, copy of letter from Susan Bishop to Dr. Blease, dated December 13, 1998, wherein Ms. Bishop states: "I would like to request the complete file your office maintains on all of my pets. Enclosed is a self-addressed stamped envelope for your convenience.") Ms. Bishop then sent additional letters dated January 17, 1999 (S-4 in evidence) and January 22, 1999 (S-5 in evidence) to Dr. Blease, again asking for her pets' records.<sup>4</sup> The record suggests that Dr. Blease did not then send Ms. Bishop her pets' records until some three months

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<sup>4</sup> Within her letter of January 17, 1999, Ms. Bishop stated:

Re: Second request for pet records

I sent you a written request on December 12, 1998 for the records you maintained on my pets. Over a month has elapsed without the receipt of same.

...

You were in receipt of a self-addressed stamped large manila envelope for your convenience.

Thereafter, Ms. Bishop again wrote to Dr. Blease five days later, on January 22, 1999, and then thanked Dr. Blease for returning Tabitha's collar and tags and reiterated, for a third time in writing, her request for copies of her pet records.

later in March 1999.

N.J.A.C. 13:44-4.9 expressly requires a licensee to furnish a patient record to a client upon request within 30 days of receipt of a written request for records. The regulations in no way require a patient to visit an office to obtain a record, and in fact directly state that the request for records may be in writing.<sup>5</sup> We thus reject respondent's defense suggestion that his failure to turn over the records was occasioned because Ms. Bishop did not pick up the records in his office. While Ms. Klotz's statement (D-5 in evidence) suggests that her policy may have been to provide records when a client came to the office, our regulations do not allow for such a policy to be effected. Further, there is absolutely no suggestion in Ms. Klotz's statement, nor is there any suggestion anywhere within the record, that such a policy, if it existed, was communicated to Ms. Bishop in particular, or to any other patients of Dr. Blease. Indeed, the fact that Ms. Bishop included a pre-addressed stamped envelope with her initial request for records necessarily suggests that Ms.

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<sup>5</sup> N.J.A.C. 13:44-4.9(c) states:

Copies of a licensee's record or a summary report of such record and copies of all pertinent objective data and papers pertaining to a given patient, along with a key to any codes, abbreviations and non-English words appearing on such record, data or papers, shall be furnished to the patient's owner, a designated representative or a designated veterinarian within 30 days of a written request by the owner or duly authorized representative or within such lesser time as may be necessary for the care of the patient. A reasonable charge to cover the licensee's costs in preparing or obtaining such copies may be made.

Bishop expected that the records would be mailed to her, and we thus reject Dr. Blease's suggestion that his failure to furnish Ms. Bishop with copies of her pet's records for approximately three months from the date of Ms. Bishop's initial request therefor was the result of any failings on Ms. Bishop's part. We thus conclude that, by failing to timely furnish Ms. Bishop with copies of her pet's records, Dr. Blease necessarily violated N.J.A.C. 13:44-4.9(c).

3) Performing a Necropsy without Client Authorization

-- On the final charge of performing a necropsy without client authorization, we note initially that we have no doubt whatsoever that such an action, if committed, would constitute professional misconduct. On this record, however, there is conflicting evidence concerning the question whether or not Dr. Blease had authorization to perform the necropsy on Tabitha, and we therefore have determined to dismiss the charge that Dr. Blease committed professional misconduct by performing a necropsy on Tabitha without first contacting Ms. Bishop and receiving express authorization to do so.

While there is no dispute that Dr. Blease in fact performed an immediate necropsy on Tabitha upon finding her dead, without first contacting Susan Bishop, Dr. Blease has testified under oath that he in essence had "standing authorization" to perform a necropsy (or to do anything else that he may have deemed

necessary) upon any pets in his care owned by Susan Bishop, claiming that the authorization and consent were obtained over the course of twenty-five years of dealings with Ms. Bishop. While we note that Ms. Bishop's written claims to the Board cast doubt on Dr. Blease's claims<sup>6</sup>, Ms. Bishop was not called upon to testify in this matter, and nowhere within the evidence presented are there any specific sworn statements from Ms. Bishop rebutting Dr. Blease's testimony. We conclude that if Dr. Blease in fact had standing authorization from Ms. Bishop to perform procedures he deemed necessary upon her pets in his care, then Dr. Blease's actions would not rise to the level of professional misconduct in this case. We accordingly, on this record, dismiss the third charge of professional misconduct filed against Dr. Blease.

#### Penalty

On the issue of penalty, we have weighed and considered the testimony offered by Dr. Blease, and find it appropriate to impose administrative fines of \$1,250 for each of the two violations found. While we are sympathetic to Dr. Blease's claims that his actions may have been, in part, occasioned by health problems and depression, we can neither condone nor excuse respondent's misconduct based thereon. Further, we point out that

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<sup>6</sup> Within her filed complaint with the Board dated January 25, 1999 (D-2), Ms. Bishop states that "I was never contacted by him or his office personally after I left Tabitha in his care, to ask me, especially, if he could perform a necropsy." Additionally, within a letter accompanying the complaint (S-8), Ms. Bishop stated that "at no time did Dr. Blease call me or request the chance to perform a necropsy on my dog."

this action now constitutes the second formal disciplinary action taken by this Board against respondent, and that respondent therefore could have been subjected to heightened penalties as a second offender under the Uniform Enforcement Act. See N.J.S.A. 45:1-25.<sup>7</sup> Finally, given that two of the three charges within the UPL were ultimately sustained against respondent following hearing, we deem it fair and appropriate in this instance to order that respondent be assessed two-thirds of the administrative costs that were incurred by the Board prior to the date of hearing. As those costs total \$1,863.14, respondent shall be required to bear \$1,242.09 of the costs incurred in this case.

WHEREFORE, it is on this 11<sup>th</sup> day of Aug., 2000

ORDERED:

1. Respondent Robert Blease, D.V.M., is hereby found to have violated N.J.A.C. 13:44-4.9, by failing to maintain complete and adequate patient records as required within said regulation, and is hereby assessed and ordered to pay an administrative penalty in the amount of \$1,250 based upon said violation.

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<sup>7</sup> Respondent Blease's license to practice veterinary medicine was suspended for five years, the entirety of which was stayed, and Respondent was fined \$7,500 and ordered to pay costs of \$532 by Decision and Final Order of this Board filed November 21, 1991. The action was based upon findings that respondent had distributed in interstate commerce drugs which were deemed unsafe (within the meaning of Federal Law), thereby constituting a potentially significant hazard to animals and humans, and upon conclusions that, by doing so, respondent had committed gross negligence and gross malpractice within the meaning of N.J.S.A. 45:1-21(c), had committed repeated acts of negligence and malpractice within the meaning of N.J.S.A. 45:1-21(d), and had committed professional misconduct within the meaning of N.J.S.A. 45:1-21(e). See Final Decision and Order in the Matter of Robert R. Blease, D.V.M., filed November 21, 1991.

2. Respondent Robert Blease, D.V.M., is hereby found to have violated N.J.A.C. 13:44-4.9(c), by failing to timely release patient records upon receipt of a written request therefor, and is hereby assessed and ordered to pay an administrative penalty in the amount of \$1,250 based upon said violation.

3. The charge within the filed complaint in this matter that respondent committed professional misconduct, in violation of N.J.S.A. 45:1-21(e), is hereby dismissed.

4. Respondent Robert Blease, D.V.M., is hereby assessed and ordered to pay administrative costs in the amount of \$1,242.09.

5. Respondent Robert Blease, D.V.M., shall pay all fines and costs assessed in this Order, totalling \$3,742.09, to the Board within ten days of the date of filing of this Order.

NEW JERSEY STATE BOARD OF  
VETERINARY MEDICAL EXAMINERS

By: 

Carolyn Self, D.V.M.  
Board President